

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF MEMPHIS

November 23, 2010

3:30 P.M. SCHEDULED SESSION

3:30 P.M. MEETING COMMENCED

ROLL CALL: Joe Brown, William Boyd, Kemp Conrad, Shea Flinn, Edmund Ford, Jr., Janis Fullilove, Wanda Halbert, Reid Hedgepeth, Myron Lowery, Bill Morrison, Jim Strickland, and Chairman Harold Collins. Barbara Swearngen Ware was absent.

**THE MEETING WAS CALLED TO ORDER
BY SERGEANT-AT-ARMS**

INVOCATION

The meeting was opened with prayer by Brother Joel McGraw, Assistant Principal from Christian Brothers High School. Councilman Hedgepeth presented Brother McGraw with a certificate naming him Chaplain of the day.

These minutes record the agenda items and the action taken by the Council on such items. The full text of the original of the ordinances, resolutions and supporting documents, including an audio recording of Council's deliberations are filed and maintained in the office of Council Records/Records Management, Room 2B-08. The original ordinances and/or resolutions adopted by the Council shall control in the event of any conflict between the description in these minutes and the original documents, ordinances and/or resolutions.

MINUTES

Approval of the Minutes of the regular meeting of November 9, 2010 with the following motion:

MOTION: Ford
SECOND: Morrison
AYES: Boyd, Brown, Flinn, Ford, Fullilove, Halbert, Lowery, Morrison, Strickland and Chairman Collins
Conrad and Hedgepeth did not cast a vote
Ware was absent

APPROVED

(Captain Douglas McGowan presented a Certificate of Appreciation to Chief Alvin Benson for Memphis Fire Department's assistance to Naval Support Activity Mid-South during the May floods).

1. **RESOLUTION CONGRATULATING HOLLY LABRY ON BEING NAMED RESERVE CHAMPION AT THE WASHINGTON INTERNATIONAL HORSE SHOW AND RESERVE CHAMPION AT THE 2010 NATIONAL HORSE SHOW.**

MOTION: Boyd
SECOND: Conrad

APPROVED, unanimous voice vote

2. **RESOLUTION RECOGNIZING MEMPHIS ALUMNAE CHAPTER OF DELTA SIGMA THETA SORORITY, INCORPORATED IN HONOR OF THEIR 75TH CHAPTER ANNIVERSARY CELEBRATION.**

MOTION: Fullilove
SECOND: Halbert

APPROVED, unanimous voice vote

3. **RESOLUTION THANKING MARY POLLARD FOR HER 22 YEARS OF SERVICE AS THE NEIGHBORHOOD WATCH COORDINATOR FOR THE TILLMAN PRECINCT.**

MOTION: Strickland
SECOND: Conrad

APPROVED, unanimous voice vote

23. **RESOLUTION SUPPORTING THE ANNIE E. CASEY FOUNDATION EFFORTS IN BRINGING THE JUVENILE DETENTION ALTERNATIVES INITIATIVE TO MEMPHIS AND SHELBY COUNTY.**

MOTION: Halbert
SECOND: Brown

APPROVED, unanimous voice vote

4. **RESOLUTION APPROVING PLANNED DEVELOPMENT LOCATED AT THE WESTERN TERMINUS OF NONCONNAH VIEW COVE; +/-465 FEET WEST OF GERMANTOWN ROAD, CONTAINING 8.70 ACRES IN AN AREA CURRENTLY GOVERNED BY GERMANTOWN-KNIGHT ARNOLD P.D. 91-329.**

Case No. PD 10-313

Applicant: TV6-W, LLC
Prime Development Group, Inc. - Representative

Request: Plan amendment to allow a cellular communications tower one-hundred fifty (150) feet in height of concealed canister monopole design with a capacity to accommodate a minimum of five (5) antennae in Area 'D'

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Ford
SECOND: Boyd
AYES: Boyd, Brown, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Strickland and Chairman Collins
Flinn recused
Morrison did not cast a vote
Ware was absent

APPROVED

5. **RESOLUTION APPROVING A STREET/ALLEY CLOSURE LOCATED ON THE SOUTH SIDE OF MONROE AVENUE EXTENDED, 130 FEET WEST OF MADISON AVENUE, CONTAINING .07 ACRE.**

Case No. SAC 10-604

Applicant: James H. Wolfe and Gracie Wolfe

Request: Close alley right-of-way

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Ford
SECOND: Boyd
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Strickland and Chairman Collins
Morrison did not cast a vote
Ware was absent

APPROVED

6. **ORDINANCE REZONING THE SOUTH SIDE OF RAINES ROAD; 400 FEET EAST OF MARLIN ROAD, CONTAINING 0.47 ACRE IN THE SINGLE FAMILY RESIDENTIAL (RS-10) DISTRICT, UP FOR T H I R D AND F I N A L READING.**

Case No. Z 10-111
Ordinance No. 5387

Applicant: Robert T. Cooper, Jr.
James Kincaide – Representative

Request: Change zoning from Single Family Residential (RS-10) to Local
Commercial General Office (O-G) Districts

LUCB and OPD recommendation: APPROVAL

MOTION: Ford
SECOND: Fullilove
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery,
Strickland and Chairman Collins
Morrison did not cast a vote
Ware was absent

APPROVED

CONSENT AGENDA – Item #7 may be acted upon by one motion: SEE PAGE 1705 FOR ROLL CALL

7. **ORDINANCE TO AMEND CHAPTER 9 OF THE CITY OF MEMPHIS CODE OF ORDINANCES, TO INCLUDE NONDISCRIMINATION BASED UPON SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, UP FOR SECOND READING.**

Ordinance No. 5388

(Councilman Flinn stated that if this Ordinance failed on the Consent Agenda, he wanted it to be placed on the Regular Agenda. Chairman Collins ruled this as being out of order).

ROLL CALL CONSENT ITEM

MOTION: Flinn
SECOND: Fullilove
AYES: Flinn, Ford, Fullilove, Halbert, Lowery and Strickland
NAYS: Boyd, Conrad and Hedgepeth
Brown, Collins and Morrison did not cast a vote
Ware was absent

FAILED, on Second reading

(Councilman Flinn and Councilwoman Fullilove stood up in division on the failing of this Ordinance and challenged the Chairman's ruling on this Ordinance. Councilman Flinn then made a motion to hold this item for (2) weeks. Chairman Collins stated that if this motion fails, this item becomes moot).

(Special Item #1 – Hold item #7 for 2 weeks)

MOTION: Flinn
SECOND: Fullilove
AYES: Brown, Flinn, Ford, Fullilove, Lowery and Strickland
NAYS: Boyd, Conrad, Halbert, Hedgepeth, Morrison and Chairman Collins
Ware was absent

FAILED

(Special Item #2 – Councilman Flinn’s motion to challenge the Chairman’s ruling. Since Special Item #1 failed, Councilman Flinn withdrew this motion).

MLGW FISCAL CONSENT – Items 8 - 16 may be acted upon by one motion:

8. **RESOLUTION AWARDED CONTRACT NO. 11421, MLGW RETIREMENT AND PENSION ACTUARY, TO THE SEGAL COMPANY, IN THE FUNDED AMOUNT OF \$308,000.00.**

APPROVED

9. **RESOLUTION AWARDED CONTRACT NO. 11422, OTHER POST-EMPLOYMENT BENEFITS ACTUARY, TO THE SEGAL COMPANY, IN THE FUNDED AMOUNT OF \$308,000.00.**

APPROVED

10. **RESOLUTION APPROVING CHANGE NO. 4 TO CONTRACT NO. 11112, GENERATOR PREVENTATIVE MAINTENANCE AGREEMENT, WITH CUMMINS MID-SOUTH, LLC, IN THE FUNDED AMOUNT OF \$51,543.57. (THIS CHANGE RENEWS THE CONTRACT FOR THE FOURTH AND FINAL RENEWAL TERM, JANUARY 21, 2011 TO JANUARY 20, 2012, WITH A DECREASE IN RATES).**

APPROVED

11. **RESOLUTION APPROVING CHANGE NO. 2 TO CONTRACT NO. 11185, ENVIRONMENTAL CONSULTING SERVICES, WITH CENTER FOR TOXICOLOGY AND ENVIRONMENTAL HEALTH, IN THE FUNDED AMOUNT OF \$75,000.00. (THIS CHANGE RENEWS THE CONTRACT FOR THE SECOND OF FOUR RENEWAL TERMS, JANUARY 1, 2011 TO DECEMBER 31, 2011).**

APPROVED

12. **RESOLUTION APPROVING CHANGE NO. 1 TO CONTRACT NO. 11324, IN-SERVICE WOOD POLE INSPECTION, WITH OSMOSE UTILITIES SERVICES, INC., IN THE FUNDED AMOUNT OF \$600,000.00. (THIS CHANGE RENEWS THE**

CONTRACT FOR THE FIRST OF FOUR RENEWAL TERMS, JANUARY 1, 2011 TO DECEMBER 31, 2011, WITH AN INCREASE IN RATES. THIS CHANGE ALSO INCLUDES ADDITIONAL SERVICE UNITS).

APPROVED

13. RESOLUTION AWARDING CONTRACT FOR FORKLIFT TRUCKS, AS FOLLOWS:

Nissan Liftrucks of Memphis.....	\$28,952.39
Lift Pro of Memphis.....	27,880.12
Shaw Material Handling Systems.....	<u>103,484.00</u>
Total:	<u>\$160,316.51</u>

APPROVED

14. RESOLUTION AWARDING 48-MONTH CONTRACT FOR RENTAL OF TWO DIGITAL BLACK-AND-WHITE COPIER/PRINTER SYSTEMS TO KONICA MINOLTA BUSINESS SOLUTIONS, IN THE AMOUNT OF \$690,240.00.

APPROVED

15. RESOLUTION AWARDING CONTRACT FOR BALL CLUSTER SETS TO UTILICOR, IN THE AMOUNT OF \$129,000.00.

APPROVED

16. RESOLUTION AWARDING CONTRACT FOR POWER CIRCUIT BREAKERS TO MITSUBISHI ELECTRIC POWER PRODUCTS C/O H V SALES, IN THE AMOUNT OF \$349,895.00.

APPROVED

MLGW ROLL CALL CONSENT ITEMS

MOTION: Ford
SECOND: Strickland
AYES: Boyd, Conrad, Ford, Fullilove, Halbert, Hedgpeeth, Lowery, Strickland and
Chairman Collins
Brown, Flinn and Morrison did not cast a vote
Ware was absent

APPROVED

(Items #17 & #27 were called together)

17. **APPOINTMENT**

MEMPHIS AND SHELBY COUNTY BOARD OF ADJUSTMENT

REAPPOINTMENT

DAVID ANDREWS

27. **APPOINTMENT**

MEMPHIS AND SHELBY COUNTY AIRPORT AUTHORITY

APPOINTMENT

ARNOLD E. PERL

MOTION: Strickland

SECOND: Boyd

AYES: Boyd, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison,
Strickland and Chairman Collins
Brown and Flinn did not cast a vote
Ware was absent

APPROVED

18. **RESOLUTION AMENDING THE FISCAL YEAR 2011 SPECIAL REVENUE FUND BUDGETS BY ACCEPTING AND APPROPRIATING \$50,000.00 IN GRANT FUNDS PASSED THROUGH SHELBY COUNTY GOVERNMENT TO THE DIVISION OF ENGINEERING FOR TRANSPORTATION PLANNING ACTIVITIES.**

MOTION: Hedgepeth

SECOND: Strickland

AYES: Boyd, Brown, Conrad, Ford, Fullilove, Halbert, Lowery, Morrison, Strickland
and Chairman Collins
Flinn and Hedgepeth did not cast a vote
Ware was absent

APPROVED

19. **RESOLUTION REQUESTING STRUCTURAL CHANGES TO THE FY 2012 OPERATING BUDGET REPORTING STRUCTURE.**

MOTION: Morrison

SECOND: Ford

AYES: Boyd, Brown, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland and Chairman Collins
Flinn did not cast a vote
Ware was absent

APPROVED

20. **RESOLUTION APPROPRIATING \$434,808.00 FOR CONTRACT CONSTRUCTION, FUNDED BY G.O. BONDS GENERAL FOR FIRE STATION REPAIR, CIP PROJECT NUMBER FS02001.**

City Council did include Fire Station Repair, CIP Project Number FS02001 as part of the FY 2011 Capital Improvement Program. Bids were taken on September 24, 2010 for Fire Station Repair, with the lowest and best complying bid of five bids submitted by P.C. Mock Construction Co., LLC.

MOTION: Lowery
SECOND: Fullilove
AYES: Brown, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Lowery and Chairman Collins
Boyd, Flinn, Morrison and Strickland
Ware was absent

APPROVED

21. **RESOLUTION APPROPRIATING \$781,906.00 IN GENERAL OBLIGATION BONDS FROM THE FY 2011 CIP BUDGET FOR THE DIVISION OF FIRE SERVICES FOR STATION REPAIRS FOR A TOTAL APPROPRIATION OF \$781,906.00.**

MOTION: Lowery
SECOND: Boyd
AYES: Boyd, Brown, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Lowery and Chairman Collins
Flinn, Morrison and Strickland did not cast a vote
Ware was absent

APPROVED

22. **RESOLUTION TO AMEND AND APPROPRIATE THE FY 2011 OPERATING BUDGET IN THE AMOUNT OF \$2,000,000.00 TO ESTABLISH FUNDS FOR THE FY 2011 BROWNFIELDS ECONOMIC DEVELOPMENT INITIATIVE GRANT FOR SITE ACQUISITION, SITE PREPARATION AND REMEDIATION AS PART OF THE MEMPHIS MEDICALCENTER HOTEL PROJECT.**

MOTION: Brown
SECOND: Boyd

AYES: Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison and Chairman Collins
Strickland abstained
Boyd did not cast a vote
Ware was absent

APPROVED

24. **RESOLUTION AMENDING THE CIP BUDGET BY ADVANCING A PROJECT IDENTIFIED AS PW01195, FAIRLEY ROAD, SCHEDULED FOR FY 2012 INTO FY 2011.**

MOTION: Brown
SECOND: Fullilove
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland and Chairman Collins
Ware was absent

APPROVED, as amended

25. **RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE CENTER CITY DEVELOPMENT CORPORATION TO ACT AS TRANSACTIONAL AGENT FOR THE JAMES LEE HOUSE, LOCATED AT 690 ADAMS AVENUE, AND TO AUTHORIZE THE MAYOR OF THE CITY OF MEMPHIS TO SELL THE JAMES LEE HOUSE TO THE PRIVATE DEVELOPER CHOSEN BY CENTER CITY DEVELOPMENT CORPORATION.**

MOTION: Hedgepeth
SECOND: Ford
AYES: Boyd, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison and Strickland
NAYS: Brown and Chairman Collins
Ware was absent

APPROVED

26. **RESOLUTION TO AMEND THE FY 2011 CAPITAL IMPROVEMENT BUDGET BY TRANSFERRING ALLOCATIONS IN THE AMOUNT OF \$182,399.00 FROM ARCHITECTURE AND ENGINEERING TO CONSTRUCTION IN EECBG-ENERGY EFFICIENCY ARRA, PROJECT NUMBER SW04010. RESOLUTION TO AMEND THE FY2011 CAPITAL IMPROVEMENT BUDGET BY TRANSFERRING AN ALLOCATION AND APPROPRIATING \$188,844.00 FUNDED BY SEWER REVENUE BONDS FROM REHAB EXISTING SEWERS, PROJECT NUMBER SW02001 TO EECBG-ENERGY EFFICIENCY ARRA, PROJECT NUMBER SW04010 TO COVER THE COST OF CONSTRUCTION CONTINGENCIES. RESOLUTION TO TRANSFER APPROPRIATIONS OF \$116,041.00 FROM THE MLGW PORTION, GRANT**

PROJECT NUMBER PW90005 TO EECBG-ENERGY EFFICIENCYARRA, PROJECT NUMBER SW04010 AND ESTABLISH THE ADDITIONAL ALLOCATIONS FOR CONSTRUCTION.

MOTION: Hedgepeth
SECOND: Ford
AYES: Boyd, Conrad, Flinn, Ford, Fullilove, Halbert, Lowery, Morrison, Strickland and Chairman Collins
Brown and Hedgepeth did not cast a vote
Ware was absent

APPROVED

28. **RESOLUTION ACCEPTING GRANT FUNDS IN THE AMOUNT OF \$10,000.00 FROM THE STATE OF TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT DIVISION FOR WIA TITLE I NATIONAL EMERGENCY GRANT (NEG) FOR DISLOCATED WORKERS. RESOLUTION ALSO AMENDS FY2011 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE GRANT FUNDS.**

MOTION: Conrad
SECOND: Fullilove
AYES: Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland and Chairman Collins
Boyd did not cast a vote
Ware was absent

APPROVED

29. **RESOLUTION ACCEPTING GRANT FUNDS IN THE AMOUNT OF \$1,645,790.00 FROM THE STATE OF TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT DIVISION FOR WIA TITLE I DISLOCATED WORKER PROGRAM. RESOLUTION ALSO AMENDS FY2011 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE GRANT FUNDS.**

MOTION: Conrad
SECOND: Fullilove
AYES: Boyd, Brown, Conrad, Ford, Fullilove, Halbert, Lowery, Morrison, Strickland and Chairman Collins
Flinn and Hedgepeth did not cast a vote
Ware was absent

APPROVED

30. **RESOLUTION ACCEPTING GRANT FUNDS IN THE AMOUNT OF \$2,071,116.00 FROM THE STATE OF TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT DIVISION FOR WIA TITLE I ADULT PROGRAM. RESOLUTION ALSO AMENDS FY2011 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE GRANT FUNDS.**

MOTION: Conrad
SECOND: Boyd
AYES: Boyd, Brown, Conrad, Flinn, Ford, Halbert, Lowery, Morrison, Strickland and Chairman Collins
Fullilove and Hedgepeth did not cast a vote
Ware was absent

APPROVED

31. **RESOLUTION TO WAIVE RESTRICTIVE COVENANTS OF CERTAIN PROPERTY, LOCATED IN THE BEALE STREET URBAN RENEWAL AREA, TO ALLOW HOTEL CONSTRUCTION ON CERTAIN PROPERTY LOCATED AT FOURTH AND LINDEN.**

MOTION: Brown
SECOND: Boyd
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland and Chairman Collins
Ware was absent

APPROVED

32. **RESOLUTION REQUESTING THAT THE CITY COUNCIL SCHEDULE A PUBLIC HEARING, TO BE HELD ON DECEMBER 7, 2010, FOR CONSIDERATION AND DETERMINATION OF REVISIONS IN TARIFFS, TO REFLECT INCREASES IN WATER RATES (5.0%), EFFECTIVE WITH METERS READ ON CYCLE ONE OF THE JANUARY 2011 REVENUE MONTH, ON A NON-PRORATED BASIS.**

MOTION: Fullilove
SECOND: Boyd
AYES: Boyd, Conrad, Flinn, Ford, Fullilove, Hedgepeth, Lowery, Morrison, Strickland and Chairman Collins
NAY: Halbert
Brown did not cast a vote
Ware was absent

APPROVED

33. **RESOLUTION INSTRUCTING COUNCIL ATTORNEY ALAN WADE, TO PURSUE A MOTION FOR MEDIATION IN THE LITIGATION BETWEEN CITY OF MEMPHIS AND MEMPHIS CITY SCHOOLS.**

MOTION: Strickland
SECOND: Fullilove
AYES: Boyd, Flinn, Fullilove, Halbert, Hedgepeth, Lowery, Strickland and
Chairman Collins
Brown, Conrad, Ford and Morrison did not cast a vote
Ware was absent

APPROVED

(Councilman Ford made a motion to suspend the rules and add the Minutes of Item#20, from November 9, 2010 Minutes to tonight's meeting)

(Special Item #3)

MOTION: Ford
SECOND: Boyd
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery,
Morrison, Strickland and Chairman Collins
Ware was absent

APPROVED

(Councilwoman Fullilove made a motion to approve Same Night Minutes for items #26, #27, #28, #29, #30, #31, #32 & #33 from tonight's meeting)

MOTION: Fullilove
SECOND: Strickland
AYES: Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Lowery, Strickland and
Chairman Collins
Boyd, Hedgepeth and Morrison did not cast a vote
Ware was absent

APPROVED

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

Chairman Collins recognized the following people who spoke from the audience:

William D. Strevel, 648 Riverside, Memphis, Tennessee, 38103
Jed Wallace, 23 S. Pauline, Memphis, Tennessee, 38104
Walter Broady, 4256 Ledbetter Avenue, Memphis, Tennessee, 38109

ADJOURNED MEETING AT 6:00 P.M.

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Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

C H A I R M A N

Attest:

Deputy Comptroller/Council Records